



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Michael E. Tompkins, and §
Michael J. Green §
§
SERIAL NO.: 08/385,062 §
§
FILED: February 7, 1995 §
§
FOR: SPA CONTROL SYSTEM §

GROUP ART UNIT: 2314

EXAMINER:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Date: May 11, 1995
Atty File No. 86-1198-061A

Commissioner of Patents & Trademarks
Washington, D.C. 20231

Sir:

This Supplemental Information Disclosure Statement, including Form PTO-1449, comprises a list of references which have recently come to the attention of the Assignee of the present invention. These references include a brochure entitled "Hydrotouch II, Digital Command Center" evidently authored by BakerHydro, Inc., a division of TOLO, Incorporated, with a purported copyright notice date of 1981. The other brochure is entitled "Spa-Troller, The Computerized System" by the Spa-Trol Company. Assignee could find no publication date on this brochure although a handwritten date of May 3, 1982 appears on the front page. Assignee does not know who wrote this date on the brochure, or what it means. For purposes of this Supplemental Information Disclosure Statement, however, and without waiving the right to subsequently contend otherwise, Assignee respectfully requests the Examiner to treat these brochures as prior art as to the claimed invention.

Each of these prior art references recently was brought to the attention of the Assignee pursuant to discovery in litigation relating to U.S. Patent No. 5,361,215, a related patent. The submission of this Supplemental Information Disclosure Statement and Form PTO-1449 is not an admission that the art cited is "prior art" with respect to the present invention, nor is it a representation that no better art exists. Nor

does Assignee intend to waive or relieve the Office of its burden of presenting a *prima facie* case of unpatentability. Assignee and Applicants hereby reserve the right to swear behind or otherwise disapprove any alleged "prior" nature of any art cited should the facts support and the situation warrant such an action. Similarly, Assignee and Applicants reserve the right to dispute that the Examiner has presented a *prima facie* ground of unpatentability for any reason, including the prior nature of any reference relied upon by the Examiner. It is submitted that the art cited does not constitute a bar to the patentability of Applicant's invention under 35 U.S.C. § 102 or § 103.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that the attached communication is being deposited in the United States mail as Express Mail Next Day Service, No. AB099432454, in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, on May 11, 1995 from Houston, Texas by Donna G. Davis.

In the event that such communication is not timely filed in the United States Patent and Trademark Office, it is requested that this paper be treated as a petition and that the:

X delay in prosecution be held unavoidable - 35 U.S.C. 133.

X delay payment of the fee be accepted - 35 U.S.C. 151.

The petition fee required is authorized to be charged to Deposit Account No. 15-0697 in the name of David Ostfeld, P.C.

The undersigned declare further that all statements made herein are true, based upon the best available information; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

May 11, 1995


Date



David M. Ostfeld, Reg. No. 27,827

May 11, 1995

Date



(Signature of person mailing, if other than the above)